

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**THOMAS W. CUNNINGHAM,**

**Plaintiff,**

**v.**

**No. CV 12-1052 MV/LAM**

**THE CITY OF ALBUQUERQUE, et al.,**

**Defendants.**

**ORDER DENYING MOTION TO APPOINT COUNSEL**

**THIS MATTER** is before the Court on Plaintiff's *Motion for Appointment of Counsel* (Doc. 7), filed November 15, 2012. The Court has reviewed the motion and **FINDS** that it is not well-taken and should be **DENIED without prejudice** at this time.

A prisoner filing a § 1983 civil rights complaint does not have a Sixth Amendment right to appointed counsel. *See Johnson v. Johnson*, 466 F.3d 1213, 1217 (10th Cir. 2006) (citation omitted). Rather, the burden is on Plaintiff to convince the Court that his claim has merit and that his case is one of "those extreme cases where lack of counsel results in fundamental unfairness." *Steffey v. Orman*, 461 F.3d 1218, 1223 (10th Cir. 2006) (citation omitted).

It is not enough that having counsel appointed would have assisted the prisoner in presenting his strongest possible case, as the same could be said in any case. . . . In evaluating a prisoner's request for appointed counsel, the court should consider the merits of the prisoner's claims, the nature and complexity of the factual and legal issues, and the prisoner's ability to investigate the facts and present his claims.

*Id.* at 1223-24 (citations and internal quotation marks and brackets omitted). Counsel will not be appointed where the plaintiff's complaint and pleadings adequately present the factual and legal basis of the action and demonstrate that the plaintiff understands the basics of his constitutional and

other claims. *Id.* at 1224. Having reviewed Plaintiff's complaint in light of the foregoing factors, the Court finds that he appears to understand the issues in the case and appears to be representing himself in a capable manner.

**IT IS THEREFORE ORDERED** that Plaintiff's *Motion for Appointment of Counsel* (Doc. 7) is **DENIED without prejudice** at this time.

**IT IS SO ORDERED.**

  
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**THE HONORABLE LOURDES A. MARTÍNEZ**  
**UNITED STATES MAGISTRATE JUDGE**